

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

PLAINTIFF

MICHAEL LEVON THOMAS

VS.

CIVIL ACTION NO. 4:07CV00092-HTW-LRA

SYMTECH CORPORATION

DEFENDANT

**REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

THIS CAUSE is before the Court on Plaintiff's [2]&[9] Motions to Proceed *In Forma Pauperis*. Plaintiff requests that the prepayment of filing fees and costs be waived pursuant to 28 U.S.C. § 1915. After a review of the Plaintiff's sworn Financial Affidavit filed with the Court, it is the opinion of the Magistrate Judge that Plaintiff is not indigent under the law and should not be allowed to proceed *in forma pauperis*, for the reasons stated herein.

Plaintiff is employed and reports \$1,148 per month in income. Plaintiff also owns two motor vehicles: a 1996 Mercury Village valued at \$2,500 and a 1988 Pontiac Trans Am valued at \$1000. Accordingly, the Court finds Plaintiff has sufficient assets to pay the filing fees in this case. Plaintiff also reports that his total monthly expenses are less than his monthly income.

Section 28 U.S.C. §1915(a)(1) is intended to provide access to federal courts for plaintiffs who lack the financial resources to pay any part of the statutory filing costs. See **Williams v. Estelle**, 681 F.2d 946 (5th Cir. 1982); **Prows v. Kastner**, 842 F.2d 138 (5th Cir. 1988). This Court, in exercising its discretion, has considered the following factors:

Is the Plaintiff barred from the federal courts by reason of his impecuniosity? **Souder v. McGuire**, 516 F.2d 820 (3rd Cir. 1975);

Is access to the courts blocked by the imposition of an undue hardship? **Startti v. United States**, 415 F.2d 1115 (5th Cir. 1969); and,

Is the plaintiff forced to contribute his last dollar, or render himself destitute to prosecute his claim? **Adkins v. E.I. DuPont de Nemours & Co.**, 335 U.S. 331, 337 (1941).

The Court, having considered the circumstances in their entirety, finds that Plaintiff has sufficient money to pay the filing fees without undue financial hardship. It is therefore the recommendation of the Undersigned that Plaintiff's motion to proceed *in forma pauperis* be denied, and he be given thirty (30) days to pay the filing fees in this cause.

The parties are hereby notified that they should file any written objections to the proposed findings, conclusions, and recommendations contained within this Report and Recommendation on or before November 5, 2007. The failure to do so shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the District Court. 28 U.S.C. §636, **Douglass v. United Services Automobile Association**, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

SO ORDERED THIS the 26th day of October, 2007.

S/Linda R. Anderson
UNITED STATES MAGISTRATE JUDGE